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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

KATHRYN MARSHALL

CASE NO. C-1-02-189

VENA MARSHALL

Judge Herman Weber

Plaintiffs

Magistrate Judge Hogan

vs.

OHIO DEPARTMENT OF EDUCATION

NEW BOSTON PUBLIC SCHOOLS

LOWELL HOWARD

BERNARD TILLEY

MELINDA BURNSIDE

JERRY BENTLEY

LAURA WESSEL

PAT POTTER

Defendants

**DEFENDANTS' MOTION TO
PRECLUDE PLAINTIFFS' EXPERT
WITNESSES**

Defendants respectfully request that this Court issue an order precluding plaintiffs from using any expert witnesses because plaintiffs have not identified any experts in a timely manner pursuant to this Court's Calendar Order of April 13, 2005.

This Court issued a Calendar Order on April 13, 2005 requiring plaintiffs to identify primary experts and produce primary reports by August 31, 2005. Despite the permission of defendants' counsel for permission to extend that identification date for twelve days after the August 31, 2005 date, plaintiffs have not identified any expert witnesses nor have they provided any reports on which any expert witness might testify. Because plaintiffs have failed to comply with this Court's Calendar Order, defendants respectfully request that plaintiffs be precluded from identifying any expert witnesses at this time or in the future. Given the discovery cut-off date of December 31, 2005, it would be prejudicial to defendants to allow plaintiffs to ignore this Court's Calendar Order and identify any expert witnesses. Given the failure of plaintiffs to cooperate in any meaningful fashion on discovery issues, especially given the pending motion to compel defendants have been forced to file to obtain written discovery responses from the two remaining plaintiffs, it is clear that the plaintiffs have no interest in an early and efficient litigation.

For the foregoing reasons, defendants respectfully request that plaintiffs be precluded from identifying or using any expert witnesses in this matter.

Respectfully submitted,

/s/ R. Gary Winters

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of November, 2005 , a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/ R. Gary Winters
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